

that LB 428 does is that it says, "Look, don't it? "People who are alleged to be incapacitated", and those could be children who are mentally retarded and handicapped, those can be older people who have by virtue of senility or other physical or mental infirmities can no longer manage their affairs, "that a guardianship for those persons can be commenced", and LB 428 says, "if a guardianship for one of those individuals is commenced, a lawyer to represent that person has got to be assured". Now that can be a lawyer of the incapacitated person's own choice, or if they are not in the position of that kind to make a choice, then it will be an appointed lawyer and that lawyer will basically assist the court in developing the facts that deal with (a) the incapacitation, and (b) the nature of the guardianship that should be imposed. Now a guardianship literally strips from the individual the ability to make any decisions concerning their financial affairs, concerning where they live, concerning how they take medications, concerning how they get treated, I mean it literally removes from the individual virtually all of the human and civil rights that we know of and it seems to me that given the magnitude of the stripping away, so to speak, of basic human rights that the least that we want to do is to guarantee that before those rights are so removed that the individual has had a fair hearing and that is what the appointment of the attorney is really about.

PRESIDENT: All right, the Chair recognizes Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, I will support the Beutler amendment but even with the Beutler amendment I still find the bill quite unpalatable. On page 9, Section 9, I would like to read this section to you. "The reasonable fees and costs of a guardian ad litem and visitor appointed by the court shall be allowed, disallowed, or adjusted by the court and shall be paid from the estate of the ward if the ward possesses an estate, or, if not, shall be paid by the county in which the proceedings are brought." Now you tie that back with the part of the Beutler amendment that requires they be represented, and we are talking about a lot of cases where you have got family taking the guardianship, and if you require legal representation, you are eroding that estate and forcing erosion of that estate where actually there is no reason whatsoever for it. It is a noncontroversial guardianship where the family may very well be involved, the parent, vice versa, or a child involved in that estate, taking over the guardianship, and then to require the ward pay out of the estate, I think this is an extremely unreasonable provision when you hook this with what Senator Beutler is trying to strike. So I certainly would urge to adopt the Beutler amendment, but even with